

## City of College Station

### PROFESSIONAL SERVICES CONTRACT

This Contract is between the **City of College Station**, a Texas home-rule municipal corporation, (the "City") and **Mitchell & Morgan, , a Limited Liability Partnership** (the "Contractor"), whereby the Contractor agrees to provide the City with certain professional services as described herein and the City agrees to pay the Contractor for those services.

#### ARTICLE I

##### Scope of Services

- 1.01 In consideration of the compensation stated in paragraph 2.01 hereinbelow, the Contractor agrees to provide the City with the professional services as described in **Exhibit "A"**, the Scope of Services, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows: Wastewater portion of the annexation project as more fully described in RFQ #03-79 (the "Project") and the Steeplechase Impact Fee Sewer Line.

#### ARTICLE II

##### Payment

- 2.01 In consideration of the Contractor's provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Contractor according to the terms set forth in **Exhibit "B."** Except in the event of a duly authorized change order, approved by the City as provided in this Contract, the total cost of all professional services provided under this Contract may not exceed **Two hundred three thousand and four hundred forty five and 00/100 Dollars (\$203,445.00).**

#### ARTICLE III

##### Time of Performance and Construction Cost

- 3.01 The Contractor shall complete the professional services within the times set forth below. The Contractor shall exercise a degree of care and diligence in the performance of all services under this Contractor in accordance with the professional standards prevailing among Contractors in the location in which Contractor practices or College Station, Texas, whichever is the higher standard, skilled in design for projects of similar scope, and all of the Contractor services shall be performed as expeditiously as is consistent with said standards and the orderly progress of the Work.

[ 30% Preliminary Design: 90 calendar days after the authorization to commence 30% Preliminary Design]

[ 60% Project Design: 60 calendar days after authorization to commence 60% Project Design ]

[90% Design: 60 calendar days after authorization to commence 90% Design]

[Final Bid Document Preparation: 30 calendar days after authorization to commence Final Bid Document Preparation]

- 3.02 All design work and other professional services provided under this Contract must be completed by the date set out by the Notices to Proceed.
- 3.03 **Time is of the essence of this Contract.** The Contractor shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified. Promptly after the execution of this Contract, the Contractor shall prepare and submit for the City to approve in writing, a detailed schedule for the performance of the Contractor's services to meet the City's project milestone dates which are included in this Contract. The Contractor's schedule shall include allowances for periods of time required for the City's review and for approval of submissions by authorities having jurisdiction over the Project. The time limits established by this schedule over which Contractor has control shall not be exceeded without written approval from the City.
- 3.04 The Contractor's services consist of all of the services required to be performed by Contractor, Contractor's employees and Contractor's consultants under the terms of this Contract. Such services include normal civil, structural, mechanical and electrical engineering services, plumbing, food service, acoustical and landscape services, and any other design services that are normally or customarily furnished and reasonably necessary for the Project. The Contractor shall contract and employ at his expense consultants necessary for the design of the Project, and such consultants shall be licensed as required by the State of Texas and approved in writing by the City.
- 3.05 The Contractor shall designate a principal of the firm reasonably satisfactory to the City who shall, so long as employed by Contractor and acceptable to the City, remain in charge of professional services through completion and be available for general consultation throughout the Project. Any replacement of that principal shall be approved in writing (which shall not be unreasonably withheld) by the City, prior to replacement.
- 3.06 Contractor shall be responsible for the coordination of all drawings and design documents relating to Contractor's design and used on the Project, regardless of whether such drawings and documents are prepared by Contractor. Contractor shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through Contractor and for their compliance with all applicable codes, ordinances, regulations, laws and statutes.
- 3.07 Contractor's evaluations of the City's project budget and the preliminary estimates of construction cost and detailed estimates of construction cost, represent the Contractor's best judgment as a design professional familiar with the construction industry.
- 3.08 The construction budget for this Project, which is established as a condition of this Contract is One Million Seven Hundred Eighty Three Thousand and Two Hundred and

Seventeen Dollars (\$ 1,783,217.00 ). This construction budget shall not be exceeded unless the amount is changed in writing by the City.

#### **ARTICLE IV** **30% Preliminary Design**

- 4.01 Upon the Contractor's receipt from the City of a letter of authorization to commence 30% Preliminary Design, the Contractor shall meet with the City for the purpose of determining the nature of the Project. The Contractor shall inquire in writing as to the information he believes the City may have in its possession that is necessary for the Contractor's performance. The City shall provide the information within its possession that it can make available to the Contractor. The City shall designate a representative to act as the contact person on behalf of the City.
- 4.02 The Contractor shall determine the City's needs with regard to the Project, including, but not limited to, tests, analyses, reports, site evaluations, needs surveys, comparisons with other municipal Projects, review of budgetary constraints and other preliminary investigations necessary for the Project. Contractor shall verify the observable existing conditions of the Project and verify any existing as-built drawings. Contractor shall confirm that the Project can be designed and constructed within the time limits outlined in this Contract. Contractor shall prepare a detailed design phase schedule which includes all review and approval periods during the schematic design, design development and construction document phases. Contractor shall confirm that the Project can be designed and constructed for the dollar amount of the project budget, if applicable.
- 4.03 The Contractor shall prepare a 30% Preliminary Design that shall include schematic layouts, surveys, sketches and exhibits demonstrating the considerations involved in the Project. The 30% Preliminary Design shall contemplate compliance with all applicable laws, statutes, ordinances, codes and regulations. Upon the City's request, the Contractor shall meet with City staff and the City Council to make a presentation of his report.

#### **ARTICLE V** **60% Project Design**

- 5.01 The City shall direct the Contractor to commence work on the 60% Project Design by sending to the Contractor a "letter of authorization" to begin work on the 60% Project Design pursuant to this Contract. Upon receipt of the Letter of Authorization to commence 60% Project Design, the Contractor shall meet with the City for the purpose of determining the extent of any revisions to the 30% Preliminary Design.
- 5.02 The Contractor shall prepare the 60% Project Design of the Project, including, but not limited to, the 60% Project Design drawings and specifications and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be

appropriate. The Contractor shall submit to the City a detailed estimate of the construction costs of the Project, based on current area, volume, or other unit costs. This estimate shall also indicate both the cost of each category of work involved in constructing the Project and the time required for construction of the Project from commencement to final completion.

- 5.03 Upon completion of the 60% Project Design of the Project, the Contractor shall so notify the City. Upon request the Contractor shall meet with the City staff and City Council to make a presentation of his 60% Project Design of the Project. The Contractor shall provide an explanation of the 60% Project Design and cost estimate and shall verify that, to the best of Contractor's belief, the Project requirements and construction can be completed within the project budget and schedule.

## **ARTICLE VI**

### **90% Design**

- 6.01 The City shall direct the Contractor to commence work on the 90% Design of the Project by sending to the Contractor a "letter of authorization" to begin work on the 90% Design phase of the Project. Upon receipt of the Letter of Authorization to proceed with 90% Design of the Project, the Contractor shall immediately prepare the 90% Design, including, but not limited to, the bid documents, contract, drawings, and specifications, to fix and describe the size and character of the Project as to structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate. The 90% Design of the Project shall comply with all applicable laws, statutes, ordinances, codes, and regulations.
- 6.02 Notwithstanding the City's approval of the 90% Design, the Contractor warrants that the Final Design will be sufficient and adequate to fulfill the purposes of the Project.
- 6.03 **The Contractor shall prepare and separately seal the special provisions, the technical specifications, and bid proposal form(s) in conformance with the City's current pre-approved, "Standard Form of Construction Agreement" for the construction contract between the City and the contractor. The Contractor hereby agrees that no changes, modifications, supplementations, alterations, or deletions will be made to the City's standard form without the prior written approval of the City.**
- 6.04 The Contractor shall provide the City with complete contract documents sufficient to be advertised for bids by the City. The contract documents shall include the design and specifications and other changes that are required to fulfill the purpose of the Project. Upon completion of the 90% Design of the Project, with the submission of the complete contract documents, and upon request of the City, the Contractor shall meet with City Staff and the City Council to present the 90% Design of the Project. The Contractor shall provide an explanation of the 90% Design and cost estimate.

**ARTICLE VII**  
**Final Bid Document Preparation**

- 7.01 The Contractor shall assist the City in advertising for and obtaining bids or negotiating proposals for the construction of the Project. Upon request, the Contractor shall meet with City Staff and the City Council to present, and make recommendations on, the bids submitted for the construction of the Project.
- 7.02 The Contractor shall review the construction contractors' bids, including subcontractors, suppliers, and other persons required for completion of the Project. The Contractor shall evaluate each bid and provide these evaluations to the City along with a recommendation on each bid. If the lowest bid for the construction of the Project exceeds the final cost estimate set forth in the final design of the Project, then the Contractor, at his sole cost and expense, shall revise the construction documents so that the total construction costs of the Project will not exceed the final cost estimate contained in the final design of the Project.
- 7.03 Where substitutions are requested by a construction contractor, the Contractor shall review the substitution requested and approve or disapprove such substitutions.

**ARTICLE VIII**  
**Construction**

- 8.01 The Contractor shall be a representative of, and shall advise and consult with, the City (1) during construction, and (2) at the City's direction from time to time during the correction, or warranty, period described in the construction contract. The Contractor shall have authority to act on behalf of the City only to the extent provided in this Agreement unless modified by written instrument.
- 8.02 The Contractor shall make visits to the site, with a frequency appropriate to the scope of the Project, to inspect the progress and quality of the executed work of the construction contractor and his subcontractors and to determine if such work is proceeding in accordance with the contract documents. Contractor shall periodically review the as-built drawings for accuracy and completeness, and shall report his findings to the City.
- 8.03 The Contractor shall keep the City informed of the progress and quality of the work. The Contractor shall exercise the utmost care and diligence in discovering and promptly reporting to the City any defects or deficiencies in such work and shall disapprove or reject any work failing to conform with the contract documents.
- 8.04 The Contractor shall review and approve shop drawings and samples, the results of tests and inspections, and other data that each construction contractor or subcontractor is

required to provide. The Contractor's review and approval shall include a determination of whether the work complies with all applicable laws, statutes, ordinances and codes and a determination of whether the work, when completed, will be in compliance with the requirements of the contract documents.

- 8.05 The Contractor shall determine the acceptability of substitute materials and equipment that may be proposed by construction contractors or subcontractors. The Contractor shall also receive and review maintenance and operating instruction manuals, schedules, guarantees, and certificates of inspection, which are to be assembled by the construction contractor in accordance with the contract documents.
- 8.06 The Contractor shall issue all instructions of the City to the construction contractor as well as interpretations and clarifications of the contract documents pertaining to the performance of the work. Contractor shall interpret the contract documents and judge the performance thereunder by the contractor constructing the Project, and Contractor shall, within a reasonable time, render such interpretations and clarifications as it may deem necessary for the proper execution and progress of the Work. Contractor shall receive no additional compensation for providing clarification of the Drawings and Specifications.
- 8.07 The Contractor shall review the amounts owing to the construction contractor and recommend to the City, in writing, payments to the construction contractor of such amounts. The Contractor's recommendation of payment, being based upon the Contractor's on-site inspections and his experience and qualifications as a design professional, shall constitute a recommendation by the Contractor to the City that the quality of such work is in accordance with the contract documents and that the work has progressed to the point reflected in Contractor's recommendation for payment.
- 8.08 Upon notification from the construction contractor that the Project is substantially complete, the Contractor shall conduct an inspection of the site to determine if the Project is substantially complete. The Contractor shall prepare a checklist of items that shall be completed prior to final acceptance. Upon notification by the construction contractor that the checklist items designated by the Contractor for completion have been completed, the Contractor shall inspect the Project to verify final completion.
- 8.09 The Contractor shall not be responsible for the work of the construction contractor or any of his subcontractors, except that the Contractor shall be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the contract documents if such failures result from the Contractor's negligent acts or omissions. This provision shall not alter the Contractor's duties to the City arising from the performance of the Contractor's obligations under this Contract.
- 8.10 The Contractor shall conduct at least one on-site inspection during the warranty period and shall report to the City as to the continued acceptability of the work.

- 8.11 The Contractor shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project without an advance, written authorization from the City.
- 8.12 The Contractor shall perform all of its duties under this Article VIII so as to not cause any delay in the progress of construction of the Project.
- 8.13 The Contractor shall assist the construction contractor and City in obtaining an Occupancy Permit by accompanying governing officials during inspections of the Project if requested to do so by the City.

## ARTICLE IX

### Change Orders & Documents & Materials

- 9.01 No changes shall be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid except upon the prior written order from authorized personnel of the City. The Contractor shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project.
- 9.02 Written change orders may be approved by the City Manager or his delegate provided that the change order does not increase the amount set forth in paragraph 2 of this Contract by more than **five percent (5%)**. Changes in excess of this amount must be approved by the City Council prior to commencement of the services or work. **Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.** If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.
- 9.03 The Contractor shall furnish the City One (1) set of reproducible mylar plans and One set of specifications. It is hereby agreed that additional copies shall be provided to the City at the City's expense. The Contractor shall provide the City One (1) set of reproducible, mylar-record drawings that clearly show all the changes made during the construction process, based upon the marked-up prints, drawings, and other data furnished by the construction contractor to the Contractor. The Contractor shall provide copies of documents, computer files if available, surveys, notes, and tracings used or prepared by the Contractor. The foregoing documentation, the Contractor's work product, and other information in the Contractor's possession concerning the Project shall be the property of the City from the time of preparation. The Contractor shall also furnish one set of digital files representing the final as-built mylars.

**ARTICLE X**  
**Warranty, Indemnification, & Release**

- 10.01 As an experienced and qualified design professional, the Contractor warrants that the information provided by the Contractor reflects high professional and industry standards, procedures, and performances. The Contractor warrants the design preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of other services under this Contract, pursuant to a high standard of performance in the profession. The Contractor warrants that the Contractor will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Contractor, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their designs, information, plans, specifications or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Contractor, its employees, associates, agents, or subcontractors.
- 10.02 The Contractor shall promptly correct any defective designs or specifications furnished by the Contractor at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Contractor's services hereunder or of the Project itself shall in no way alter the Contractor's obligations or the City's rights hereunder.
- 10.03 In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Contractor shall be responsible for the professional services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Contractor shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The Contractor shall have ultimate control over the execution of the professional services. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors.
- 10.04 The Contractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as their personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Contractor, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.
- 10.05 Indemnity. The Contractor agrees to indemnify, defend, and hold harmless the City, its officers, employees, and agents (separately and collectively referred to in this paragraph as "Indemnatee"), from and against any and all claims, losses,**



**damages, causes of action, suits, judgments, settlements made by Indemnatee, and liability of every kind, including all expenses of litigation, court costs, attorney's fees, and other reasonable costs for damage to or loss of use of any property, for injuries to, or sickness or death of any person, including but not limited to Contractor, any of its subcontractors of any tier, or of any employee or invitee of Contractor or of any such subcontractors, that is caused by, arises out of, related to, or in connection with, the negligence of and/or negligent performance of this Contract by Contractor or by any such subcontractors of any tier, under this Contract.**

- 10.06 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 10.05, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.**
- 10.07 Release. The Contractor releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Contractor or its employees and any loss of or damage to any property of the Contractor or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Contractor's work to be performed hereunder. Both the City and the Contractor expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance and in the event of injury, sickness, death, loss, or damage suffered by the Contractor or its employees, but not otherwise, this release shall apply regardless of whether such loss, damage, injury, or death was caused in whole or in part by the City, any other party released hereunder, the Contractor, or any third party.**

## **ARTICLE XI**

### **Insurance**

- 11.01 The Contractor shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The policies, limits and endorsements required are as set forth on Exhibit C.**

**ARTICLE XII**  
**Use of Drawings, Specifications and Other Documents**

- 12.01 The Drawings, Specifications and other documents prepared by the Contractor and Contractor's consultants for this Project shall become the property of the City whether the Project is completed or not. The City shall be furnished and permitted to retain reproducible copies and electronic versions of Contractor's Drawings, Specifications and other documents.
- 12.02 The documents prepared by Contractor may be used as a prototype for other facilities by the City. The City may elect to use the Contractor to perform the site adaptation and other architectural services involved in reuse of the prototype. If so, the Contractor is obligated to perform the work for an additional compensation that will fairly compensate the Contractor and its consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this Contract. If the City elects to employ a different architect to perform the site adaptation and other architectural services involved in reuse of the prototype, that architect will be entitled to use Contractor's consultants on the same basis that Contractor would have been entitled to use them for the work on the reuse of the prototype, and such architect will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the construction documents, approved shop drawings and calculations, and change order drawings in performing its work. The Contractor will not be responsible for errors and omissions of a subsequent architect. The Contractor shall commit its consultants to the terms of this subparagraph.
- 12.03 In the event of termination of this Agreement for any reason, the City shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project.
- 12.04 Only the details of the drawings relating to this Project may be used by the Contractor on other projects, but they shall not be used as a whole without written authorization by the City. The City furnished forms, conditions, and other written documents shall not be used on other projects by the Contractor.

**ARTICLE XIII**  
**Termination**

- 13.01 The City may terminate this Contract at any time upon **thirty (30)** calendar days written notice. Upon the Contractor's receipt of such notice, the Contractor shall cease work immediately. The Contractor shall be compensated for the services satisfactorily performed prior to the termination date.
- 13.02 If, through any cause, the Contractor fails to fulfill its obligations under this Contract, or if the Contractor violates any of the agreements of this Contract, the City has the right to

terminate this Contract by giving the Contractor **five (5)** calendar days written notice to the Contractor. The Contractor will be compensated for the services satisfactorily performed before the termination date.

- 13.03 No term or provision of this Contract shall be construed to relieve the Contractor of liability to the City for damages sustained by the City because of any breach of contract and/or negligence by the Contractor. The City may withhold payments to the Contractor for the purpose of setoff until the exact amount of damages due the City from the Contractor is determined and paid.

#### **ARTICLE XIV Miscellaneous Terms**

- 14.01 This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.
- 14.02 Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

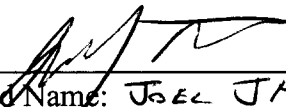
City of College Station  
Attn: Kimberly Carter  
P.O. Box 9960  
College Station, Texas 77842

Contractor:  
Mitchell & Morgan, LLP  
Attn: Veronica J.B.Morgan, P.E.  
511 University Drive. E., Suite 204  
College Station, Texas 77840

- 14.03 No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.
- 14.04 This Contract represents the entire and integrated agreement between the City and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.
- 14.05 This Contract and all rights and obligations contained herein may not be assigned by the Contractor without the prior written approval of the City.

- 14.06 If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
- 14.07 The Contractor, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of College Station, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Contractor must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.
- 14.08 The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.
- 14.09 This Contract will be effective when signed by the last party whose signing makes the Contract fully executed.
- 14.10 **Notice of Indemnification. City and Contractor hereby acknowledge and agree that this Contract contains certain indemnification obligations and covenants.**

**[CONTRACTOR]**

By:   
Printed Name: JOEL J. MITCHELL  
Title: PARTNER  
Date: 4 DEC 03

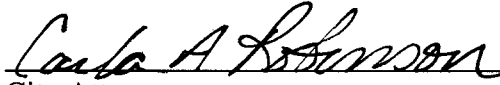
**CITY OF COLLEGE STATION**

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, City Secretary  
Date: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
\_\_\_\_\_, City Manager  
Date: \_\_\_\_\_  
  
Carla A. Robinson  
City Attorney

Date: \_\_\_\_\_

\_\_\_\_\_, Director of Fiscal Services

Date: \_\_\_\_\_

**Exhibit “A”**  
**Scope of Services**

**Steeplechase Wastewater Annexation Project  
Annexation Area 1  
Scope of Services**

**General**

This project includes the design of wastewater improvements for Annexation Area 1 consisting of a single major trunk sewer line and two sewer collection lines. These two sewer collection lines will extend north and south along Wellborn Road/FM 2154 and feed into the larger trunk sewer line which will connect to the existing eighteen inch (18") sanitary sewerline in the Steeplechase subdivision.

The trunk line consists of approximately 2000 linear feet of eighteen inch (18") sewerline, the north collection line consists of approximately 2270 linear feet of twelve inch (12") line, and the south collection line consists of 2025 linear feet of fifteen (15") and 4040 linear feet of twelve (12") inch line. The southern collection line runs parallel to Wellborn Road for 3860 linear feet, of which 2025 linear feet is fifteen inch (15") sewerline and the remainder is twelve inch (12") sewerline. At the end of this segment, the twelve inch (12") line turns southwest for 980 linear feet, then southeast for 1225 linear feet ending at the southeast side of Gandy Road approximately 1000 feet west of Wellborn Road.

The sewer line improvements involve several long bores and casings under FM 2154 (Wellborn Road) and the adjacent Union Pacific Railroad (UPRR) track. Because permits from TxDOT and UPRR will be required for this work, the coordination of permits should be started with the early design phases.

**Preliminary Engineering**

Mitchell & Morgan, LLP has completed the preliminary engineering for the Wastewater Annexation Project.

**30% Preliminary Design Phase**

Upon receiving a written Notice to Proceed, Mitchell & Morgan, LLP will begin to collect the survey data, conduct the geotechnical investigation (if needed) for the project limits, and develop 30% preliminary design drawings.

The survey will locate all existing improvements, including utilities and drainage outfall locations, within the existing and proposed right-of-way for the extension of the trunk sewer line located within the Steeplechase Subdivision. In addition, the survey will include topography along the alignment and define the legal descriptions of all new easements and rights-of-way required for the project. The survey will also include the establishment of project control points to be used for construction control by the contractor.

Preliminary design drawings shall be limited to plan view only, but will show the proposed locations for the sewer lines. All legal descriptions for required right-of-way or easement acquisition for this project will also be submitted as soon as possible after approval of the 30%

design documents. These preliminary design documents will include a preliminary engineer's estimate.

This phase shall be completed within ninety (90) days after receiving the Notice to Proceed for this phase. Mitchell & Morgan, LLP will provide the City with two (2) bond copy sets of the 30% Design Documents for review and three (3) copies of the metes & bounds descriptions and associated sketches for easement acquisition.

### **60% Project Design**

Upon receiving a written Notice to Proceed, Mitchell & Morgan, LLP will refine the 30% preliminary drawings based upon City comments to develop 60% design drawings and an engineer's estimate for the utility construction. These drawings will provide both plan and profile information for the sewer lines in preliminary form. Preliminary specifications will also be drafted at this time. Mitchell & Morgan, LLP will provide the City with two (2) bond copy sets of the 60% Design Documents to review and two (2) copies of the draft specifications. Mitchell & Morgan will also forward copies of these documents to TxDOT & UPRR (if applicable) for review & comments. This phase shall be completed within sixty (60) days after receiving a Notice to Proceed for this phase.

### **90% Design**

Upon the return of all comments from the City of College Station, UPRR (if applicable), and TxDOT and a Notice to Proceed, Mitchell & Morgan, LLP will develop 90% design drawings and engineer's estimate for the utility construction. Mitchell & Morgan, LLP will provide the City of College Station with three (3) bond copy sets of construction drawings for review & two (2) copies of the specifications. These construction drawings will include 90% design for the sewer lines and specifications, traffic control plans and any TxDOT permitting (50% complete), and an engineer's estimate of cost. This phase shall be completed within sixty (60) days after receiving a Notice to Proceed for this phase.

### **Final Bid Document Preparation**

Upon the return of all comments from the City of College Station and a Notice to Proceed, Mitchell & Morgan, LLP will provide the City of College Station with mylar reproducibles of final construction drawings and specifications sufficient for public bidding. These documents will include:

- Final Plans
- Final Specifications
- Bid Proposal
- Final Engineer's Estimate
- Special Conditions

This phase shall be completed within thirty (30) days after receiving a Notice to Proceed for the final design phase.



## **Bid Preparation and Evaluation**

Mitchell & Morgan, LLP agrees to assist the City in the advertising to obtain bids for the contract and attending pre-bid conferences. Mitchell & Morgan, LLP will also prepare and issue any addenda as may be deemed appropriate to interpret, clarify, or expand the bidding documents. Mitchell & Morgan, LLP will also attend bid openings, and provide assistance to the owner in evaluating bids.

## **Construction Phase**

Mitchell & Morgan, LLP will provide the following services during the construction phase of these projects:

- Attend a preconstruction meeting for the projects.
- Review shop drawings, and laboratory tests submitted by the construction contractor for compliance with the plans and specifications.
- Prepare sketches required to resolve problems due to actual field conditions encountered.
- Prepare record drawings from information submitted by the contractor and the City inspector for the projects.
- Make a final inspection and report on the completion of the projects, including recommendations concerning final payments to the construction contractor and release of retained percentages.

Construction staking is not included in this scope of services.

## **Payment Terms**

Payment is a fixed fee based upon the above scope of services. Payments will be made on a monthly basis based upon the services completed during that month. Funds allocated for environmental assessment will only be utilized if needed. The basic service fees are outlined below:

<b>Basic Service</b>	<b>Fee</b>
Surveying	\$11,823
Traffic	\$2,420
Environmental Assessment	\$2,500
30% Design Phase	\$29,040
60% Design Phase	\$30,250
90% Design Phase	\$21,780
Final Bid Document Preparation	\$19,360
Bid Preparation and Evaluation	\$6,050
Construction Phase	\$12,100
<u>Public Meetings</u>	<u>\$1,200</u>
<b>TOTAL</b>	<b>\$136,523</b>

**Nantucket Wastewater Annexation Project  
Annexation Areas 2 & 3  
Scope of Services**

**General**

This project consists of the design of sewer collection lines from the existing sanitary sewer lines in College Station to the new Annexation Areas 2 & 3. These sewer improvements will allow Annexation Areas 2 and 3 to be serviced by the City of College Station. The construction of a 12" sewer line from the existing 15" Impact Fee Line #97-02b, through Annexation Area 3 to Annexation Area 2 will provide this service.

The proposed line will be sized for the combined flow of Annexation Areas 2 and 3. The alignment of the new sewer line should follow existing rights-of-way if possible to avoid negative impacts on adjacent conflicts with property owners. The design of this line will accommodate the removal of the existing Nantucket Lift Station and Nantucket Package Plant from service. This scope of services does not include the removal & disposal of the two items.

**Preliminary Engineering Research and 30% Preliminary Design Phase**

Since the development of the wastewater concept plans associated with the recent annexation, Mitchell & Morgan, LLP has worked with College Station Public Utilities on several projects in the Nantucket area and has discovered that the construction drawings for the South Hampton sewer line do not reflect as-built conditions. Preliminary engineering for Annexation Areas 2 & 3 will include as-built condition research.

Upon receiving a written Notice to Proceed, Mitchell & Morgan, LLP will begin the preliminary research as well as collect the survey data, conduct the geotechnical investigation (if needed) for the project limits, and develop 30% preliminary design drawings.

The survey will locate all existing improvements, including utilities and drainage outfall locations, within the existing and proposed right-of-way for the proposed lines in the Nantucket Subdivision. In addition, the survey will include topography along the alignment and define the legal descriptions of all new easements and rights-of-way required for the project. The survey will also include the establishment of project control points to be used for construction control by the contractor.

Preliminary design drawings shall be limited to plan view only, but will show the proposed locations for the sewer lines. All legal descriptions for required right-of-way or easement acquisition for this project will also be submitted as soon as possible after approval of the 30% design documents. These preliminary design documents will include a preliminary engineer's estimate. This phase shall be completed within ninety (90) days after receiving the Notice to Proceed for this phase.

Mitchell & Morgan, LLP will provide the City with two (2) bond copy sets of the 30% Design Documents for review & three (3) copies of the metes & bounds descriptions & associated sketches for easement acquisition.

## **60% Project Design**

Upon receiving a written Notice to Proceed, Mitchell & Morgan, LLP will refine the 30% preliminary drawings based upon City comments to develop 60% design drawings and an engineer's estimate for the utility construction. These drawings will provide both plan and profile information for the sewer lines in preliminary form. Preliminary specifications will also be drafted at this time. Mitchell & Morgan, LLP will provide the City with two (2) bond copy sets of the 60% Design Documents to review and two copies of the draft specifications. Mitchell & Morgan will also forward copies of these documents to TxDOT & UPRR (if applicable) for review & comments. This phase shall be completed within sixty (60) days after receiving the Notice to Proceed for this phase.

## **90% Design**

Upon the return of all comments from the City of College Station , UPRR (if applicable), and TxDOT and a written Notice to Proceed, Mitchell & Morgan, LLP will develop 90% design drawings and engineer's estimate for the utility construction. Mitchell & Morgan, LLP will provide the City of College Station with three (3) bond copy sets of construction drawings for review and two (2) copies of the specifications. These construction drawings will include 90% design for the sewer lines and specifications, traffic control plans and any TxDOT permitting (50% complete), and an engineer's estimate of cost. This phase shall be completed within sixty (60) days after receiving the Notice to Proceed for this phase.

## **Final Bid Document Preparation**

Upon the return of all comments from the City of College Station and a Notice to Proceed, Mitchell & Morgan, LLP will provide the City of College Station with mylar reproducibles of final construction drawings and specifications sufficient for public bidding. These documents will include:

- Final Plans
- Final Specifications
- Bid Proposal
- Final Engineer's Estimate
- Special Conditions

This phase shall be completed within thirty (30) days after receiving a Notice to Proceed for the final design phase.

## **Bid Preparation and Evaluation**

Mitchell & Morgan, LLP agrees to assist the City in the advertising to obtain bids for the contract and attending pre-bid conferences. Mitchell & Morgan, LLP will also prepare and issue any addenda as may be deemed appropriate to interpret, clarify, or expand the bidding documents. Mitchell & Morgan, LLP will also attend bid openings, and provide assistance to the owner in evaluating bids.

## **Construction Phase**

Mitchell & Morgan, LLP will provide the following services during the construction phase of these projects:

- Attend a preconstruction meeting for the projects.
- Review shop drawings, and laboratory tests submitted by the construction contractor for compliance with the plans and specifications.
- Prepare sketches required to resolve problems due to actual field conditions encountered.
- Prepare record drawings from information submitted by the contractor and the City inspector for the projects.
- Make a final inspection and report on the completion of the projects, including recommendations concerning final payments to the construction contractor and release of retained percentages.

Construction staking is not included in this scope of services.

## **Payment Terms**

Payment is a fixed fee based upon the above scope of services. Payments will be made on a monthly basis based upon the services completed during that month. Funds allocated for environmental assessment will only be utilized if needed. The basic service fees are outlined below:

<b>Basic Service</b>	<b>Fee</b>
Surveying	\$12,722
Traffic	\$960
Preliminary	\$4,800
Environmental Assessment	\$5,000
30% Design Phase	\$9,600
60% Design Phase	\$10,080
90% Design Phase	\$8,160
Final Bid Document Preparation	\$7,200
Bid Preparation and Evaluation	\$2,400
Construction Phase	\$4,800
<u>Public Meetings</u>	<u>\$1,200</u>
<b>TOTAL</b>	<b>\$66,922</b>

## Exhibit "B"

### Payment Terms

SELECT ONE:

Compensation is based on *actual* hours of work/time devoted to providing the described professional services. The Contractor will be paid at a rate of \$\_\_\_\_\_ per hour, or at the rates per service or employee shown below. The City will reimburse the Contractor for *actual*, non-salary expenses at the rate of \_\_\_\_\_ percent (\_\_\_\_%) above the Contractor's actual costs, or at the rates set forth below. Unless amended by a duly authorized written change order, the total payment for all invoices on this job, including both salary and non-salary expenses, shall not exceed the amount set forth in paragraph 2.01 of this Contract (\$\_\_\_\_\_).

The Contractor must submit *monthly* invoices to the City, accompanied by an explanation of charges, professional fees, services, and expenses. The City will pay such invoices according to its normal payment procedures.

-OR-

Payment is a fixed fee in the amount listed in paragraph 2.01 of this Contract. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City.

Schedule of Payment for each phase:

**See attached Scope of Services (Exhibit "A") for payment Schedule for each phase and each annexation area.**

## EXHIBIT "C"

### Insurance Requirements

#### INSURANCE COVERAGE LIMIT REQUIREMENTS

#### CITY OF COLLEGE STATION CONTRACTS

All insurance items marked with an "X" shall apply to this contract.

Please direct your questions to Risk Management, e-mail or call Bill Cody at 764-3572 if you are in doubt.

☒ **Commercial General Liability, (a.k.a.) Public Liability**

Coverage limit should be **\$2 million** aggregate with **\$1 million** per occurrence.

This coverage should provide liability coverage for the following:

Fire Damage Liability, **\$100,000 minimum**

Medical Expense, **\$5,000 minimum**

Personal & Advertising Injury

Products & Completed Operations with Separate Aggregate

Contractual Liability

Host Liquor Liability

Explosion, Collapse, Underground

☒ **Business Auto Liability**

Coverage limit **\$1 million combined single limit**

This coverage should provide liability for the following:

Any Auto

All Owned Autos

Scheduled Autos

Hired Autos

Non Owned Autos, (includes rented & leased vehicles)

☒ **Workers Compensation**

Coverage Limit **Texas Statutory**

☒ **Employers Liability**

Coverage Limit **\$1,000,000/ \$1,000,000/ \$1,000,000**

This coverage should provide liability for the following:

E.L. Each Accident	<b>\$1,000,000</b>
E.L. Disease- Each Employee	<b>\$1,000,000</b>
E.L. Disease- Policy Limit	<b>\$1,000,000</b>

☒ **Professional Liability**

Coverage Limit **\$2 million** Aggregate with **\$1 million** per occurrence\*

Claims made policies are *acceptable on this line of coverage\**

Must have an **Extended Reporting Period Endorsement\***

☐ **Pollution Liability**

Coverage Limit **minimum** **\$1 million or \$5 million** depending upon DOT/TNRCC Classification of materials being transported. (Can be endorsed onto Business Auto Liability on form MCS-90 Endorsement- Motor Carrier Policies for insurance for Public Liability)

☒ **Umbrella / Excess Liability**

Coverage Limit **minimum** should be equal to or Greater than **\$5million** per occurrence/aggregate when combined with the lowest primary liability coverage. This coverage **MUST** follow form. (*Coverage Limit Requirement as Determined by the City's Risk Manager*)

☐ **Builders' Risk**

(*Coverage Limit Requirement as Determined by the City's Risk Manager*)

☐ **Performance Bonds & Payment Bonds**

Required on construction projects at \$100,000.00 and above. However, City has the option to have a performance bond on projects below \$100,000.00 dollars. Payment bonds are also required on projects at \$25,000.00 and above.

☐ **Commercial Crime/Fidelity Bond**

(*Coverage Limit Requirement as Determined by the City's Risk Manager*)

☐ **Liquor Legal Liability** (if alcohol is sold on premise)

(*Coverage Limit Requirement as Determined by the City's Risk Manager*)

☐ **Tenant's Contents and Betterments**

Required for Tenant's renting/leasing City of College Station Building / Office Space

*(Coverage Limit Requirement as Determined by the City's Risk Manager)*

☐ **Leasehold Interest Insurance**

Required when renting or leasing City of College Station buildings or offices.

*(Coverage Limit Requirement as Determined by the City's Risk Manager)*

**Insurance Requirements**

1. The Contractor agrees to maintain the types and amounts of insurance required in this Contract throughout the term of the Contract. The following insurance policies shall be required:

- (a) Commercial General Liability
- (b) Business Automobile Liability
- (c) Workers' Compensation
- (d) Professional Liability

2. For each of these policies, the Contractor's insurance coverage shall be primary insurance with respect to the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers, shall be considered in excess of the Contractor's insurance and shall not contribute to it. Certificates of insurance and endorsements shall be furnished to and approved by the City's Risk Manager *before* any letter of authorization to commence planning will issue or any work on the Project commences. No term or provision of the indemnification provided by the Contractor to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. **All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as Exhibit "D", and approved by the City *before* work commences.**

3. The Contractor shall include all subcontractors as additional insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4. General Requirements Applicable to All Policies.

- (a) Only insurance carriers licensed and admitted to do business in the State of Texas will be accepted.
- (b) Deductibles shall be listed on the certificate of insurance and are acceptable only on a "per occurrence" basis for property damage only.
- (c) "Claims made" policies will not be accepted, except for Professional Liability insurance.



- (d) Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of College Station by certified mail, return receipt requested.
- (e) Upon request, certified copies of all insurance policies shall be furnished to the City.
- (f) The certificates of insurance shall be prepared and executed by the insurance company or its authorized agent. Each certificate shall contain the following provisions and warranties: (a) that the insurance company is licensed and admitted to do business in the State of Texas; (b) that the insurance policy is underwritten on forms provided by the Texas State Board of Insurance or ISO; (c) all endorsements and coverages according to the requirements of this Contract; (d) the form of notice of cancellation, termination, or change in coverage provisions; and (e) original endorsements affecting coverage required by this Contract.
- (g) The City of College Station, its officials, employees, and volunteers are to be added as "Additional Insureds" to the Commercial General Liability and Business Automobile Liability Policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, and volunteers.

5. **Commercial (General) Liability** requirements:

- (a) Coverage shall be written by a carrier with an "B+:VII" or better rating in accordance with the current Best Key Rating Guide.
- (b) Minimum Combined Single Limit of \$1,000,000 per occurrence per project for bodily injury and property damage.
- (c) Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01.
- (d) No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.
- (e) The coverage shall include but not be limited to: premises/operations; independent contracts, products/completed operations, contractual liability (insuring the indemnity provided herein), and where exposures exist, "Explosion Collapse and Underground" coverage.
- (f) The City shall be named as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non contributory.

6. **Business Automobile Liability** requirements:

- (a) Coverage shall be written by a carrier with an "B+:VII" or better rating in accordance with the current Best Key Rating Guide.
- (b) Minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury and property damage.
- (c) The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.

- (d) The coverage shall include owned, leased or rented autos, non-owned autos, any autos and hired autos.

7. **Workers' Compensation Insurance** requirements:

- (a) **Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, *all* employees of the Contractor, the Contractor, *all* employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers' compensation insurance policy: either directly through their employer's policy (the Contractor's, or subcontractor's policy) or through an executed coverage agreement on an approved TWCC form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Contractors and subcontractors *must* use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.**
- (b) The worker's compensation insurance shall include the following terms:
  - (i) Employer's Liability limits of \$1,000,000 for each accident is required.
  - (ii) "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
  - (iii) Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.
- (c) Pursuant to the explicit terms of Title 28, Section 110.110(c)(7) of the Texas Administrative Code, this Agreement, the bid specifications, this Agreement, and all subcontracts on this Project must include the terms and conditions set forth below, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

*A. Definitions:*

*Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Workers' Compensation Commission, or a coverage agreement (TWCC-81, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.*

Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractors" in § 406.096 [of the Texas Labor Code]) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity **prior** to being awarded the contract.

D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

*F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.*

*G. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.*

*H. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.*

*I. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:*

*(1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;*

*(2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;*

*(3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*

*(4) obtain from each other person with whom it contracts, and provide to the Contractor:*

*(a) a certificate of coverage, prior to the other person beginning work on the project; and*

*(b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*

*(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*

(6) *notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and*

(7) *contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.*

*J. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.*

*K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity.*

**8. Professional Liability requirements:**

- (a) Coverage shall be written by a carrier with a "B+:VII" or better rating in accordance with the current Best Key Rating Guide.
- (b) Minimum of \$1,000,000 per occurrence and \$2,000,000 aggregate, with a maximum deductible of \$25,000.00.
- (c) Coverage must be maintained for two (2) years after the expiration of the term or termination of this Contract.

**Exhibit “D”**

Certificate(s) of Insurance

<b>ACORD CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 08/05/03												
<b>PRODUCER</b> USI Insurance Services of TX P.O. Box 218060 Houston, TX 77218-8060 281 496-3400	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.													
<b>INSURED</b> Mitchell & Morgan, LLP 511 University Drive East, Suite 204 College Station, TX 77840	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURERS AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A: Hartford Lloyds Insurance Company</td> <td>AH XV</td> </tr> <tr> <td>INSURER B: Hartford Underwriters Insurance Comp</td> <td>AH XV</td> </tr> <tr> <td>INSURER C: Lumbermens Mutual Casualty Company</td> <td>BL</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> </table>		INSURERS AFFORDING COVERAGE	NAIC #	INSURER A: Hartford Lloyds Insurance Company	AH XV	INSURER B: Hartford Underwriters Insurance Comp	AH XV	INSURER C: Lumbermens Mutual Casualty Company	BL	INSURER D:		INSURER E:	
INSURERS AFFORDING COVERAGE	NAIC #													
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INSURER B: Hartford Underwriters Insurance Comp	AH XV													
INSURER C: Lumbermens Mutual Casualty Company	BL													
INSURER D:														
INSURER E:														

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


WSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	61SBANG7572	08/06/03	01/22/04	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	61SBANG7572	08/06/03	01/22/04	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
A	<b>EXCESS/UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$10000	61SBANG7572	08/06/03	01/22/04	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$ \$ \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	61WECGB7564	09/11/02	09/11/03	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$100,000 E.L. DISEASE - EA EMPLOYEE \$100,000 E.L. DISEASE - POLICY LIMIT \$500,000
C	<b>OTHER Professional Liability</b>	QL04564400	01/22/03	01/22/04	\$1,000,000 per claim \$2,000,000 annl aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

\*except in the event of non-payment of premium

Ref: Texas Avenue Widening

 Workers Compensation policy includes a waiver of subrogation in favor of  
 (See Attached Descriptions)

<b>CERTIFICATE HOLDER</b> City of College Station Attn: Stella P.O. Box 9960 College Station, TX 77842	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



## DESCRIPTIONS (Continued from Page 1)

certificate holder. Cert. holder is included as additional insured on General Liability and Auto Liability coverages. Coverage shall not be suspended, voided, cancelled, reduced in coverage or limits except after 30 day prior written notice by certified mail or fax & original notice mailed to the City of College Station. Prof Liab: The aggregate limit is the total insurance available for claims presented within the policy period for all operations of insured. The limit will be reduced by payment of indemnity and expense.